

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MARCO MIGUEL ROBERTSON,

Petitioner,

v.

WARDEN J.E. THOMAS,

Respondent.

CIVIL ACTION NO. 3:CV-13-2551

(JUDGE CAPUTO)

(MAGISTRATE JUDGE CARLSON)

ORDER

NOW, this 29th day of January, 2014, upon review of the Report and Recommendation of Magistrate Judge Martin C. Carlson (Doc. 9) for plain error or manifest injustice, Petitioner's Objections to the Report and Recommendation (Doc. 10),¹ and the Petition for Writ of Habeas Corpus (Doc. 1), and finding that Petitioner's civil rights claims are not cognizable in the instant habeas action, **IT IS HEREBY ORDERED** that:

- (1) The Report & Recommendation (Doc. 9) is **ADOPTED**.
- (2) The Petition (Doc. 1) is **DENIED without prejudice** to the filing of a separate civil rights action, if Petitioner so desires.
- (3) A Certificate of Appealability **SHALL NOT ISSUE**.
- (4) The Clerk of Court is directed to mark the case as **CLOSED**.


A. Richard Caputo
United States District Judge

¹ Where objections to the Magistrate Judge's report are filed, the court must conduct a *de novo* review of the contested portions of the report. *Sample v. Diecks*, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989) (citing 28 U.S.C. § 636(b)(1)(c)). However, this only applies to the extent that a party's objections are both timely and specific. *Goney v. Clark*, 749 F.2d 5, 6-7 (3d Cir. 1984). Because the Objections do not address the fact that Petitioner is attempting to bring civil rights claims in the instant habeas action, the Report and Recommendation has been reviewed for clear error or manifest injustice. *See, e.g., Cruz v. Chater*, 990 F. Supp. 375, 376-77 (M.D. Pa. 1998).